APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,364	02/02/2001	Mark J. Kraffert	MICT-0134-US	8094

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EXAMINER
WEST, JEFFREY R

ART UNIT	PAPER NUMBER
2857	

DATE MAILED: 06/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Advisory Action	09/776,364	KRAFFERT, MARK J.
	Examiner	**Art Unit**	
	Jeffrey R. West	2857	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may <u>only</u> be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

<u>PERIOD FOR REPLY</u> [check either a) or b)]

a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

    (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ they raise the issue of new matter (see Note below);

    (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.
    NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☐ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: _____.

    Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

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Applicant first argues that "contrary to the assertion in the Office Action, Slutz also fails to disclose the following element of claim 1: the first and second test systems using the first data file in performing the respective first and second tests." Applicant indicates that "Slutz focus on one test program running in one system (a PC client, a server, or other location)." Applicant also admits that "Slutz does mention that 'the test program can be executed in one or more clients 120 or even in server 130.' Slutz, 4:18-20." Applicant asserts that "[t]o select different target databases, different configuration files would have to be used. It would hardly seem efficient for multiple PC clients of Slutz to run test programs each accessing the same configuration file 400—that would result in the same test being performed by the test programs in multiple PCs. Thus it is clear that Slutz does not provide any specific teaching or suggestion that multiple test systems can use the same data file to perform first and second tests."

The Examiner maintains that Slutz indicates that "[p]reliminary blocks 310 begin the entire testing process. Block 311 reads in a configuration file 400 containing a set of parameters for the test procedure" (column 5, lines 31-33) wherein "the test program can be executed in one ore more of the clients 120" (column 4, lines 18-19).

These passages of Slutz meet the claimed limitations for "the first and second test systems using the first data file in performing the respective first and second tests" (i.e. first and second clients using the configuration file).

Applicant then argues the combination of Slutz and Fujimori since "Fujimori has nothing to do with identifying a file name of a data file to use in first and second tests based on plural parameters. All Fujimori would have suggested to a person of ordinary skill is a technique for assigning a file name for storing musical tone information."

The Examiner asserts that Fujimori is not included to teach identifying a file name of a data file to use in first and second tests, but is only included to teach combining two strings/parameters to form a filename. The Examiner also maintains that Fujimori would lead to the combination since Fujimori specifically states advantages of the filename forming method stating, "the file name must be given with some meaning representing the contents of the waveform data in order to presume the contents of the waveform data from the file name. If the file name is not determined in connection with the contents of the waveform data, it is difficult for the user to search out the desired file" (column 2, lines 5-10). This suggests the combination with Slutz for forming the configuration file with a more detailed filename.

With respect to claim 14, Applicant indicates that "the Office Action stated that the combination of Slutz and Fujimori 'does not specifically disclose searching for the data file in storage for use in testing a database.' As noted in the previous Reply, claim 14 does not actually recite such language. Nevertheless, the same rejection was repeated against claim 14 on page 4 of the present Office Action, again repeating the language that does not exist in claim 14." Applicant also submits that "Talley does not teach or suggest a routine to identify a file name of a data file based on a string that is formed form the combination of received first and second parameters. Although Talley discusses searching for a configuration file, it discusses this in the context of searching for the configuration file in a current directory or in a user's home directory. Talley does not teach or suggest identifying a file name of a data file based on a string that is formed from the combination of received first and second parameters."

First, the Examiner asserts that claim 14 does include the limitation for "the routine to identify a file name of the data file based on the string", and therefore the invention of Talley is included to explicitly meet this specific identification limitation by searching, identifying, and retrieving a file.

Second, the invention of Talley is not included to teach the limitations of a file name based on a combination of first and second parameters since these limitations are already taught by the invention of Fujimori.

With respect to the rejection over Gartner and Fitting, Applicant argues that "[t]he Office Action states that the plurality of users and plurality of applications for testing the database are considered to be the first and second test systems. This assertion ignores the express language of claim 1, which recites several roles for the first and second test systems. The applications and users in Gartner clearly do not receive plural parameters, do not identify a file name of a first data file to use in the first and second tests based on the plural parameters, and do not use the first data file in performing respective first and second tests. Therefore, for at least this reason, the obviousness rejection over Gartner and Fitting is defective and should be withdrawn."

The Examiner asserts that the invention of Gartner is not included to teach using first and second parameters to identify a file name, but instead the invention of Fitting is included to teach these features.

Applicant then argues that "there is nothing in Fitting to even remotely suggest that first and second test systems use the same data file for performing respective first and second tests. Since neither Gartner nor Fitting teaches or suggests the claimed invention, their combination also does not teach or suggest the claimed invention."

The Examiner again asserts that the invention of Fitting is not included to teach using a file for performing respective first and second test, but instead the invention of Gartner is included to teach these features.

With respect to claim 6, Applicant argues that "Office Action stated that the external file references are the databases being tested. 3/11/2004 Office Action at 17. This statement contradicts the teaching of Garner itself, which shows the database system being tested as being DBMS 15. The external file reference refers to test files—they are not the databases being tested."

The Examiner maintains that in the invention of Gartner, the DBMS is tested by testing the external file references themselves. Gartner specifically discloses the testing of the external file references, stating, "the invention enables external file references to be randomly tested in a controlled manner" (column 2, lines 39-40). The Examiner asserts that in testing a database system, the system is tested by testing the ability of the system to correctly obtain/link/reference files. In the invention of Gartner, the "database system 12 includes a conventional database management system (DBMS) 15 that provides views of, and access to, a database kept on one or more database storage devices 16" (column 4, lines 4-7) and, as seen in Figures 1 and 3, the database 16 contains reference to the external file reference.

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